

**Energy Efficiency Revolving Loan Fund Capitalization Grant Program (EE RLF Program) – Infrastructure Investment and Jobs Act Section 40502**

***Frequently Asked Questions: Post-Release of Administrative and Legal Requirements Document (ALRD)***

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***Note: Please contact your State Energy Program Project Officer with any questions or clarifications.***

## **A. Build America, Buy America (BABA), Davis-Bacon Act (DBA), and National Environmental Policy Act (NEPA)**

### *1. Are residential projects subject to BABA?*

The infrastructure in question must be “public” infrastructure—that is, it must be (1) publicly owned; (2) or privately owned but primarily utilized for a public purpose (for example, a privately owned electric generation facility that puts electricity onto the grid for public consumption would likely be treated as “public” for Buy America purposes, as would a privately-owned museum that is open to the public). By contrast, a privately-owned residence that is closed to the public would not be subject to Buy America requirements.

### *2. Does BABA apply to loan loss reserves and interest rate buydowns?*

BABA does not apply to loan loss reserves and interest rate buydowns.

### *3. Do DBA requirements apply to all projects under this program, including residential projects, or are they limited to public infrastructure?*

DBA applies to all projects; therefore, DBA requirements will apply to a residential project. Loan loss reserves and interest rate buydowns will not be subject to DBA requirements.

### *4. Can you give us an example of how we would track DBA for residential projects?*

DOE will provide training on DBA tracking once DOE finalizes procurement of DBA tracking software for recipient use. Loan loss reserves and interest rate buydowns will not be subject to DBA requirements.

### *5. If a loan is only used for equipment purchase (e.g., no labor), what would be the federal requirements under DBA?*

If the loan is only used for equipment purchase and the state can demonstrate none of the loan funds went towards labor costs, then DBA requirements will not apply. If you have additional questions on Federal requirements, contact your Project Officer.

### *6. Would residential EE and rooftop PV projects receive a categorical exclusion<sup>1</sup> under NEPA?*

There is a list of bounded categories for the EE RLF program. You can find it in section 6.3H of the Application Instructions. The bounded category list for EE RLF is slightly different than SEP, so please make sure to review carefully.

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<sup>1</sup> Categorical exclusions are categories of actions that DOE has determined, by regulation, normally do not have significant effect on the human environment and for which, therefore, neither an environmental assessment nor an environmental impact statement normally is required. See: [Categorical Exclusion \(CX\) Determinations | Department of Energy](#).

## **B. Eligible Recipients and Eligible Measures**

*1. Can you repeat the definition (or source of definition) of low-income homeowner for grant eligibility?*

Residential grant recipients must be low-income individuals as defined in section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102). This definition can be found [here](#) (number 36).

*2. Regarding residential low-income grant eligibility, must the owner of the property be low-income, or could the occupant be low-income?*

The owner of the property must be a low-income individual, as defined in 29 U.S.C. 3102.

*3. How much of our EE RLF award is available for grants and technical assistance?*

A maximum of 25% of each state's total award is available for grants and technical assistance to the following:

- (1) a low-income individual that owns a residential building; or
- (2) a business that meets both criteria to receive loans and has fewer than 500 employees.

In other words, costs for grants and technical assistance must come out of this same 25% set aside.

*4. Is the use of the 25% technical assistance amount (e.g., for audits) limited to low-income/small commercial entities?*

Yes. To *receive* technical assistance including an audit paid for with the EE RLF technical assistance funds, entities must be either:

- (1) a low-income individual that owns a residential building; or
- (2) a business that meets both criteria to receive loans and has fewer than 500 employees.<sup>2</sup>

For non-low-income households ineligible to receive technical assistance-funded audits, states are strongly encouraged to use existing low- and no-cost audit programs administered by utilities and/or roll the cost of the audit into the loan. States focused on commercial buildings are strongly encouraged to direct technical assistance to qualifying non-public-sector business entities. Public-sector entities are eligible to receive loans.

There are no restrictions on what entities *provide* technical assistance.

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<sup>2</sup> A technical assistance provider (e.g., an entity providing energy audits) may conduct audits on any home or business; however, homeowners and businesses not qualifying for RLF technical assistance must bear the cost of the audit (e.g., as an upfront cost or as a cost rolled into the loan) or take advantage of an alternative audit program (e.g., low- and no-cost audits offered by utilities).

*5. Can the cost of the audit be rolled into the loan?*

Yes, the cost of the audit can be rolled into the loan.

*6. How do we count employees for the 500-employee eligibility criterion?*

Employee count should be calculated based on the total number of employees employed by a business, non-profit, or a public entity (not sub-totals based on building occupancy or business units).

*7. Do schools fit into commercial sector guidelines because they are public buildings?*

Yes, schools fit into the commercial sector guidelines because they are considered a public building.

*8. Can loans be made to contractors to support qualifying improvements in homes and businesses (instead of direct loans to homeowners and building owners)? For example, we're considering a bridge loan program designed to provide loans to contractors while they wait for rebates from utilities or the state; the loan is repaid by the contractor once the rebate is received.*

Contractors performing work on homes and properties may be the direct recipient of the loan (instead of the property owner) provided the retrofit meets all program requirements.

*9. Can health and safety measures (e.g., mold remediation, electrical upgrades) be financed by the program?*

As long as the audit recommends health and safety measures, and measures collectively satisfy retrofit requirements (i.e., all energy and non-energy measures as a whole, not individual measures), then health and safety measures may be financed with the program.

### **C. Audit and Retrofit Requirements**

*1. Must all elements of retrofits funded with a grant or loan under the RLF be identified by audits also funded by the RLF? In other words, may retrofits funded by the RLF be informed by audits funded outside the RLF or pre-existing the RLF?*

Audits may be funded with non-RLF funds. Any building that has undergone an addition, renovation, or significant change in occupancy or function since the audit was performed, should receive a new audit. All audits must satisfy the requirements in section 6.3E of the Application Instructions.

Audits used to support a loan or grant under the RLF program may pre-exist the RLF program. States are encouraged to use the following rules of thumb to determine whether a pre-existing audit is suitable for the RLF program OR if a new audit may be necessary:

- **Best:** An audit performed since May 20, 2021 (specific to audits from the Home Energy Score Tool). Beginning on May 20, 2021, the Home Energy Score Tool was updated to make use of NREL's EnergyPlus modeling engine resulting in more structural alignment with the Energy Rating Index (ERI) used in many HERS software tools and more detailed home upgrade recommendation results that typically yield a broader package of cost-effective upgrade measures with higher overall savings potential.
- **Good:** An audit performed between 2018 and May 19, 2021 (specific to audits from the Home Energy Score Tool). DOE stands behind any recommendation done with the Home Energy Score Tool in the last 5 years. However, audits performed prior to May 20, 2021, may yield slightly different results from a new audit, which could impact the life-cycle cost-effectiveness of a retrofit.
- **Consider a new audit:** Any audit performed prior to 2018. Based on changes to building use or performance, and upgrades to audit software and expertise, DOE discourages states from using an audit performed prior to 2018.

*2. Could a grant be used to cover the audit and the energy efficiency, and then use a loan for solar all for the same home?*

If a home qualifies for an RLF grant, then it is a low-income household, and we do not advise adding debt burden to low-income households (including WAP-eligible households and households eligible for grants under the RLF program). If the audit recommends energy efficiency measures and solar PV on a home, and the measures are collectively life-cycle cost-effective, in addition to meeting all other program requirements, then a grant may be used to cover all eligible measures in a home (i.e., energy efficiency measures plus solar).

*3. Will an audit recommend installing solar PVs?*

Home Energy Score supports data collection for solar PV systems as part of a Score assessment. The assessment may include a recommendation for technology that is not included in Home Energy Score such as solar PV. Home Energy Score may be used as a tool to show solar PV will be a beneficial installation and to document the status of the house pre- and post-solar PV.

However, the Home Energy Score does not make solar PV-specific upgrade recommendations, as the energy-efficiency-based recommendations are designed to meet a 10-year payback as an upgrade package, and to encourage reduction of a home's overall energy consumption and operating cost, prior to adding solar PV (this typically helps reduce the cost/size of the solar PV system needed to meet the home's electrical load if/when a homeowner is ready to take that next step).

*4. Do residential audits need to be performed by a Home Energy Score Certified Assessor?*

Audits should be performed by qualified individuals as demonstrated by certifications. To generate a Home Energy Score, the task must be performed by a Home Energy Score Certified Assessor. DOE recommends the use of Home Energy Score and the Home Energy Score Tool, but alternative scoring tools equivalent to Home Energy Score are permitted, including the RESNET Home Energy Rating System (HERS). HERS Raters – along with a number of other [professional home energy credentials](#) that work through a Home Energy Score Partner – can become certified to provide Home Energy Scores. It is worth noting that Home Energy Score Assessors are frequently also HERS Raters, and that a Home Energy Score can be delivered alongside a HERS Rating. Additionally, states are encouraged to use existing low- and no-cost audit programs administered by utilities provided that the programs align with RLF audit requirements.

*5. What if our state doesn't have Home Energy Score Assessors, but does have HERS raters? Will these raters suffice?*

For states without Home Energy Score Assessors, DOE recommends working with a current local/regional or national Home Energy Score Partner (see the [Home Energy Score Partner map](#) for a list of Partners) or consider becoming a Home Energy Score Partner in their territory/region of focus. Home Energy Score Assessors are managed by Partners in order to perform and track assessments, generate Scores, and receive quality assurance oversight (5% of each Assessor's Score volume). HERS Raters satisfy the "relevant credential" professional certification prerequisite to qualify for Home Energy Score Assessor training. DOE will be launching an energy auditor grant program (BIL 40503) in 2023, which may include focus on training Home Energy Score Assessors. A HERS rating is acceptable for an audit provided all other program requirements are met.

6. *We have a limited pool of residential energy auditors and a lot of ground to cover. Are virtual audits a possibility, or do the audits have to be in person?*

Neither the Home Energy Score nor the RESNET HERS is currently available remotely. However, DOE is evaluating the efficacy of remote Home Energy Score audits through a limited-time and -scope pilot. After considering the results of the pilot (ending in December 2023) and lessons learned, DOE may issue guidance allowing expanded use of remote Home Energy Score Assessments. For more information or questions about the pilot, please contact [homeenergyscore@ee.doe.gov](mailto:homeenergyscore@ee.doe.gov). DOE will be launching an energy auditor grant program (BIL 40503) in 2023, which may include focus on training Home Energy Score Assessors.

7. *The statute requires that residential energy audits “use the same evaluation criteria as the Home Performance Assessment used in the Energy Star program.” Additionally, a requirement for residential retrofits is that the retrofit must “satisfy at least one of the criteria in the Home Performance Assessment used in the ENERGY STAR program.” What specific criteria should states be referencing to satisfy these requirements?*

Regarding the residential energy audit, evaluation criteria reference how the recommended measures are evaluated and prioritized as part of a Home Performance Assessment. The Home Performance Assessment<sup>3</sup> should include a prioritized list of recommend improvements based on: 1) resolving health and safety issues; 2) satisfying customer needs and desires; 3) overall cost-benefit to the customer; and 4) programmatic goals. The loading order of recommended improvements should be consistent with industry-accepted standards and building science principles.

Additionally, to meet the residential retrofit requirement (i.e., “satisfy at least 1 of the criteria in the Home Performance Assessment”), the upgrades or retrofits of building infrastructure and systems must include at least one of the measures recommended in the Home Performance Assessment report that are lifecycle cost-effective and reduce the energy intensity or improve the control and management of the building’s energy usage to reduce demand during peak times and that improve physical comfort, energy efficiency or the quality of the air in the building.

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<sup>3</sup> Home Performance Assessment Guiding Principles (not required RLF program criteria), include: (1) Customer Engagement; (2) Basis in Building Science; (3) House-as-a-System Approach; (4) Inspection and Measurement as Needed; (5) Documentation, Analysis, and Reporting. See page 28 of [Home Performance with ENERGY STAR Sponsor Guide and Reference Manual \(v1.5\)](#).

## **D. Credit Enhancements and Braiding**

### *1. What are examples of credit enhancements other than loan loss reserve or interest rate buydowns?*

Loan loss reserves and interest rate buydowns are commonly used by states to leverage private capital. Other types of credit enhancements, which are described in the U.S. Department of Energy's [Credit Enhancement Overview Guide](#), are not commonly used by states, but may be used.

### *2. Do activities like interest rate buydowns have to be classified under the 25% grant allowance?*

No. Interest rate buydowns are a loan function and are not subject to a funding limit. An interest rate buydown occurs when one party (e.g., grantee) provides an upfront payment to reduce a customer's interest rate and lower financing repayment costs. An interest rate buydown has two primary purposes: (1) increase project affordability and therefore demand by reducing customer financing costs; and (2) maintain or increase lender/investor interest in making loans by maintaining market-rate returns.

### *3. If a state creates a loan loss reserve program, will the energy audit requirement still apply?*

Yes. All building retrofits using RLF funds will require an audit regardless of the RLF structure (e.g., traditional RLF, loan loss reserve, interest rate buydown, etc.).

### *4. Will Davis-Bacon requirements apply to loan loss reserves and interest rate buydowns?*

Davis-Bacon applies to all provisions in BIL and all loans and grants under the RLF program. However, loans supported by loan loss reserves and interest rate buydowns are not subject to Davis-Bacon requirements.

### *5. Can non-EE RLF federal program funds, including but not limited to programs such as the State Energy Program, Energy Efficiency and Conservation Block Grant Program, Home Efficiency Rebates, and Home Electrification Rebates, be braided together with EE RLF funds?*

It depends on the program guidance for each program and the specifics of each project. In general, provided that financing is an eligible activity for the non-EE RLF program, there are no restrictions to using funds from two or more federal programs to capitalize a single RLF or credit enhancement. If states wish to combine non-EE RLF dollars into the EE RLF program, the funds must be kept and accounted for separately. DOE is currently working on guidance that will better enable States to combine funds from different programs (e.g., financing programs capitalized under the American Recovery and



Reinvestment Act, or ARRA, vs. BIL-funded EE RLF) following closeout of the award(s) through which the funds were granted, but that guidance is still being developed. It will be finalized prior to closeout of these awards.

Additionally, regarding federal home rebates, rebates and RLF loans may be used in the same household or even for the same equipment.<sup>4</sup> In other words, a homeowner is generally not limited to receiving funding (e.g., loan, rebate, grant) from a single federal program. However, depending on the source of grants or rebates, RLF grants to eligible low-income households may be subject to restrictions on combining federal grants and rebates.

DOE encourages states to contact their Project Officer to discuss strategies and timeline for braiding various programs.

## **E. Unclaimed Funds**

### *1. How will unclaimed funds be redistributed?*

The unclaimed funds will be separated into their respective categories of initial allocations: 40% and 60%.

For the 40% unclaimed funds:

- The unclaimed funds under the 40% will be redistributed among all other state energy offices that applied for the RLF program via the base SEP formula used to allocate the original 40% (per statute).

For the 60% unclaimed funds:

- The unclaimed funds under the 60% will be redistributed among all other priority states that applied for the RLF program via the supplemental formula used to allocate the original 60%. The \$15 million cap on supplemental funds applies.

### *2. When will states be notified and receive the additional funds resulting from the unclaimed funds?*

States will be notified of additional funds as soon as possible after the April 21, 2023 deadline. It is DOE's intent to communicate to states any additional funds during the negotiation phase so states can update their budget forms prior to award. For states that submit prior to the April 21 deadline and are potentially awarded, a state will need to revise their application for the increase in funds.

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<sup>4</sup> Loans from the RLF program are not considered a grant or rebate and are not subject to federal restrictions on combining federal grants and rebates.

## **F. Award Management / PAGE**

- 1. Will funds be disbursed in a lump sum or over the course of 5 years?*

Funds will be disbursed as one lump sum.

- 2. If states include remaining ARRA funds along with EE RLF funds to capitalize this new RLF, do states still need to report the ARRA funding portion on the Financial Programs Reporting under our SEP-Base award?*

If states want to braid ARRA dollars into the EE RLF program, the funds must be kept and accounted for separately. Therefore, the ARRA portion will be reported in the Financial Performance Report and the EE RLF funds will be reported in your EE RLF award Quarterly Performance Report/Federal Financial Report.

- 3. If we combine ARRA funds and RLF funds, then do the requirements for the ARRA funds switch to this RLF which will end at the closeout of the grant?*

This question will be answered when the federal in perpetuity and closeout guidance is issued. If states want to braid ARRA dollars into the EE RLF program, the funds must be kept and accounted for separately.

- 4. Will the funds drawdown process for the EE RLF program work like the process for the standard SEP Grants (i.e., with a reimbursement draw after costs incurred)? Or, since the grant is funding loans, will we be able to take draws for loans we expect to complete, or after the application is submitted and approved, will we be able to draw the entire allocation when it becomes available?*

Funds may be drawn from the Department of Treasury's Automated Standard Application for Payments (ASAP) system to fund the revolving loan fund at the time the fund is obligated.

## **G. Grant / Administrative Cost Limits**

- 1. Do ALL third-party costs for servicing loans have to be paid from the 10% limit on administrative costs (rather than funding these costs from interest earnings on loan principal, which would be the standard convention for paying these expenses)?*

Loan servicing and other third-party administrative costs MAY be covered by the 10% administrative cost allowance. Loan servicing costs can also be covered by fees charged by the third-party administrator and/or via private capital interest earnings recovered by a partner financial institution (e.g., loan loss reserve).

*2. Where can I find a list of the allowable administrative costs?*

Any expenditure allowed by the Office of Management and Budget (OMB) cost principles, or by a Grantee or Subgrantee, may be charged as an administrative cost. For a full list, see OMB Circular A-87: Cost Principles for State, Local, and Indian Tribal Governments. Available online here: [OMB Circular \(whitehouse.gov\)](https://www.whitehouse.gov/presidential-action/omb-circular-a-87-cost-principles-for-state-local-and-indian-tribal-governments/).

*3. Can states do only loans with their RLF (i.e., no grants)?*

Yes, states may loan 100 percent of their capitalization award. States are not required to provide grants or incur administrative costs.

*4. Is the 25% limit for grants just one time or when funds revolve back can we issue more grants?*

During the award period, repayments (both interest and capital) are program income that must be put back into the award for re-use. See 2 CFR 200.307(e). During the 5-year period of performance, the state may not issue more than 25% of their award as grants and technical assistance. After the grant period of performance, it is possible that the 25% limit on grants and TA will be lifted (more information forthcoming per federal in perpetuity guidance and closeout agreements).

*5. Do ARRA dollars have to comply with the 25% grants limit too? Or can they be used exclusively for loans?*

ARRA dollars do not have to abide by the requirements of section 40502. Therefore, ARRA dollars can be used exclusively for loans.

*6. Can you clarify how the 25% technical assistance costs can be spent?*

DOE anticipates states will use the 25% technical assistance (TA) funds primarily to cover the cost of audits. For example, the state hires a third-party TA provider to conduct audits in homes and businesses. To receive technical assistance, entities must be either: (1) a low-income individual that owns a residential building, or (2) a business that meets both criteria to receive loans and has fewer than 500 employees.

If an audit results in a retrofit, the cost of the audit may be recouped via a loan; if an audit does not result in a retrofit, the TA provider's labor costs are covered by the technical assistance award, but only for eligible low-income households (i.e., under the 25% cap). By covering the cost of the audit under the loan, states can maximize the 25% of their award available for grants and technical assistance.

## **H. Miscellaneous**

- 1. Because this is a Revolving Loan Fund Capitalization Grant, is there an expectation that the resulting loan program will include some federal funds to be used for capitalization such that federal funding will revolve, and how many times will it need to, or be expected to, revolve?*

DOE expects RLFs to revolve, but there is no requirement and no required number of revolutions. The number of RLF revolutions will vary from state to state depending on program design.

- 2. For states that already have an existing RLF or LLR (e.g., an RLF capitalized with ARRA funds), can the new EE RLF funds be added to that program?*

Yes. States may braid existing financing program funds with their new EE RLF allocation. However, the funds must be kept and accounted for separately.

- 3. Will existing ARRA-funded RLFs have to comply with EE RLF requirements if funds are combined?*

The ARRA funds will need to be tracked and managed separately from the EE RLF funds as each set of funds has unique requirements. Once a closeout agreement for ARRA Financing Programs is completed (pending forthcoming DOE federal in perpetuity guidance), there will be limited or no ARRA requirements, but funds will still need to be tracked and managed separately from EE RLF funds.

- 4. Is this grant program eligible for pass-through? I.e., can an SEO receive funding, and then enter into an agreement with another agency or organization to run the actual program, such as a Department of Housing or a Green Bank?*

Yes. However, the state will maintain oversight and reporting responsibilities, including ensuring all program requirements are met.

- 5. If a state starts out executing direct lending to meet the 180-day requirement, can it amend its grant application in the future to expand into a loan loss reserve?*

Yes. However, DOE encourages states to develop programs that work best for their situations, even if that means taking time to develop a high-impact loan loss reserve or similar program design that may make meeting the 180-day requirement more challenging. DOE intends to be flexible with the 180-day requirement and encourages states to contact their Project Officer to discuss strategies and timeline for meeting the requirement.